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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,505	10/16/2001	Anthony Patrick Jones	PG3671USW	4406

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EXAMINER

BUECHNER, PATRICK M

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 03/29/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,505

Applicant(s)

JONES ET AL.

Examiner

Patrick M Buechner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 8-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species I in Paper No. 12 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Applicant states, in paper No. 12, page 5, lines 19-20, that claims 1-8, 16, 17 and 21-25 read on Species I. This is inaccurate. As was stated in paragraph 6 of paper No. 11 only claims 1-3, 5-7 and 23-25 read on Species I, and therefore, these are the only claims examined.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1470" has been used to designate both an aerosol container and another element in Figure 15. A proposed drawing correction or corrected drawings are required in reply

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to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: on page 23, line 11, reference numeral "1490". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The abstract of the disclosure is objected to because it appears to belong with a different application and does not describe the invention of this application. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5, 7 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris (US 4,061,251).

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Harris discloses a metering valve with a metering chamber (21) having an inlet valve (29, 51) actuatable from open to closed positions and an outlet valve (19, 20, 37), with a valve seat (19) and a valve poppet (32), actuatable from a dispensing to a non-dispensing position.

Harris also discloses the inlet valve seat (29) in biasable contact with the inlet poppet (51) by resilient fingers (50).

Harris also discloses both valves closed when the metering valve is at rest (column3, lines 8-17).

Harris also discloses the outlet valve poppet (32) is incompressible (inherent) and the outlet valve seat (19) is compressible (column 2, line 40).

Harris also discloses an inlet valve mover (30) that biases the inlet valve poppet (51) via resilient fingers (50).

Harris also discloses a sampling chamber (interior volume of dip tube 23 and unlabelled channel in valve body Figures 2-4) and the inlet valve adapted to allow flow from the sampling chamber to the metering chamber (column3, lines 8-17).

Harris also discloses the metering chamber with a fixed volume (inherent).

9. Claims 1, 2, 6, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 957,294.

GB 957,294 discloses a metering valve with a metering chamber (unlabelled interior volume of casing 1) having an inlet valve (4, 6) actuatable from open to closed positions and an outlet valve (unlabelled and 7), with a valve seat (7) and a valve poppet (2), actuatable from a dispensing to a non-dispensing position.

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GB 957,294 also discloses the inlet valve seat (2 surrounding opening 4) in biasable contact with the inlet poppet (6) by resilient spring (5).

GB 957,294 also discloses inlet valve seat as incompressible (inherent) and the inlet valve poppet having a compressible portion (6).

GB 957,294 also discloses a sampling chamber (interior volume of 2) and the inlet valve adapted to allow flow from the sampling chamber to the metering chamber (inherent).

GB 957,294 also discloses the metering chamber with a fixed volume (inherent).

10. Claims 1, 2, 5, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin (US 5,085,351).

Martin discloses a metering valve with a metering chamber (unlabeled Figure 2) having an inlet valve (60, 36, 24) actuable from open to closed positions and an outlet valve (56, 42, 50), with a valve seat (50) and a valve poppet (42), actuable from a dispensing to a non-dispensing position.

Martin also discloses the inlet valve seat (24) in biasable contact with the inlet poppet (60) by resilient inherent resiliency of the seat (column 3, line 44-52).

Martin also discloses the outlet valve poppet (42) is incompressible (inherent) and the outlet valve seat (50) is compressible (inherent).

Martin also discloses a sampling chamber (unlabelled interior volume channel in Figure 2 between poppet (60) and closed valve (70)) and the inlet valve adapted to allow flow from the sampling chamber to the metering chamber (Figures 1 and 2).

Martin also discloses the metering chamber having a variable volume (column 3, lines 29-52).

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Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick M Buechner whose telephone number is (703) 308-2602.

The examiner can normally be reached on 7:00am-4:30pm M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


PB


Gene Mancene
Supervisory Patent Examiner
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